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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KEVIN DALE McKINSTRY, OTTO RICHARD BUHLER, JEFFREY GLENN VILLIARD, and FOREST DILLINGER

Appeal 2015-002024
Application 13/213,369
Technology Center 2800

Before TERRY J. OWENS, KAREN M. HASTINGS, and LILAN REN, *Administrative Patent Judges*.

HASTINGS, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

This is in response to a Request for Rehearing ("Req. Reh'g"), dated December 19, 2016, of our Decision, mailed October 19, 2016 ("Decision"), wherein we affirmed the Examiner's § 103(a) rejection of all appealed claims.

We have reconsidered our Decision, in light of Appellants' comments in the Request for Rehearing, and we find no error in the disposition of the § 103(a) rejection.

We have reviewed the arguments set forth by Appellants in the Request. However, we remain of the opinion that the subject matter of the claims is properly rejected and unpatentable under 35 U.S.C. § 103(a).

Appellants merely argue that because "Fjelstad says nothing as to how to maintain constant impedance between shielded and unshielded sections," one of ordinary skill in the art would not have "made the leap" to impedance matching same (Req. Reh'g 2).[1]

This is not persuasive of any error in our Decision. As stated therein, Appellants' sole argument in the Appeal Brief was directed towards Fjelstad's alleged lack of teaching or suggesting of impedance matching *per se* (Decision 3). Appellants did not challenge the Examiner's determination that Jellum exemplified shielded and unshielded sections of a flexible trace interconnect array. It was unchallenged that a shielded section would *de facto* have had a different impedance than an unshielded section. Appellants' argument, thus, fails to consider the applied prior art as a whole. Appellants fail to explain why it would not have been within the ordinary level of skill using ordinary creativity to apply the known concept and advantages of impedance matching to such a known circuit/flexible trace array. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007) ("[a] person of ordinary skill is also a person of ordinary creativity, not an automaton"). Furthermore, "if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill." *KSR*, 550 U.S. at 417.

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[1] Appellants appear to fail to explicitly set forth "the points believed to have been misapprehended or overlooked by the Board" as required by 37 C.F.R. § 41.52(a). Thus, the request appears to be improper. Nonetheless, we have responded to Appellants' apparent reargument of their position on appeal.

Accordingly, no persuasive merit is present in Appellants' argument (Req. Reh'g 3).

Thus, we decline to modify our decision to affirm the Examiner's § 103(a) rejection of the appealed claims.

In conclusion, based on the foregoing, Appellants' Request is granted to the extent that we have reconsidered our Decision, but is denied with respect to making changes to the final disposition of the rejection therein.

This Decision on the Request for Rehearing incorporates our Decision, mailed October 19, 2016, and is final for the purposes of judicial review. *See* 37 C.F.R. § 41.52 (a)(1).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

DENIED